

HOUSE BILL 1281
By Fowlkes

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 16, relative to certain easements for electric and cable services providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 16, is amended by adding the following as a new part 2:

29-16-201.

(a) As used in this part, "electric or cable services provider" means any nonprofit electric membership cooperative organized or otherwise subject to the provisions of title 65, chapter 25; any electric power provider owned by any county, municipality, power district, or other subdivision of Tennessee, whether operated under the authority of a board of the governmental entity, a department of the governmental entity, or under the authority of a board created pursuant to the provisions of the Tennessee Municipal Electric Plant Law, compiled in title 7, chapter 52, or by the authority of any other public or private act of the general assembly or pursuant to the charter of the municipality; or any cable television company organized or subject to title 7, chapter 59.

(b) Whenever an electric or cable services provider desires to construct its lines, poles, or other facilities or equipment upon, along, under, over, or across the lands, structures, or right-of-way of any railroad or railway, the electric or cable service provider, by its agent, shall have the right to enter peacefully upon such lands, structures, and right-of-way and to survey, locate, and lay out its lines and facilities thereon, being liable, however, for any damage that may result by reason of such acts.

(c) Notwithstanding any law to the contrary, if an electric or cable services provider is unable to secure by consent, license or agreement a right-of-way to construct, repair and maintain its lines, poles, stations, towers, or other facilities and equipment upon, along, under, over, or across the lands, structures, and right-of-way of a railroad or railway, the electric or cable service provider shall have the right and power of eminent domain to condemn an easement and right-of-way in so much of such railroad or railway property, not exceeding a strip one hundred feet (100') wide in any one place, as may be necessary for its purposes. Provided, that any lines, poles, and other facilities and equipment shall be constructed and maintained in accord with accepted and approved standards of safety including the minimum standards of the national electric safety code and shall not impede or interfere with the normal operations of the railroad or railway.

(d) Whenever an electric or cable service provider exercises the power of eminent domain as provided in subsection (c), such entity shall compensate the railroad or railway for any actual damages that may result from the construction, maintenance, repair, or continued use and operation of the entity's lines, poles, or other facilities and shall further compensate the railroad or railway for the diminution in value, if any, of the remaining property rights of such railroad or railway, considering the uses and purposes for which the railroad or railway maintains its remaining property interest and the extent to which such use and purpose is impaired.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.